

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BidSpotter, Inc.,

Plaintiff,

MEMORANDUM & ORDER
21-CV-01726 (DG) (ARL)

-against-

Koster Industries, Inc.,

Defendant.

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DIANE GUJARATI, United States District Judge:

On March 30, 2021, Plaintiff BidSpotter, Inc. commenced this action against Defendant Koster Industries, Inc., asserting claims for breach of contract and accounts stated. *See generally* Complaint (“Compl.”), ECF No. 1.

Defendant was served, *see* Executed Summons, ECF No. 7, but did not appear in the action, and the Clerk of Court entered default against Defendant on May 19, 2021, *see* Entry of Default, ECF No. 13.

On May 21, 2021, Plaintiff moved for default judgment against Defendant. *See generally* Motion for Default Judgment (the “Motion”), ECF No. 14. On May 26, 2021, I referred the Motion to Magistrate Judge A. Kathleen Tomlinson for a report and recommendation. *See* May 26, 2021 Order. On November 12, 2021, the case was reassigned from Judge Tomlinson to Magistrate Judge Arlene R. Lindsay. *See* November 12, 2021 Docket Entry. On November 29, 2021, in light of the case’s reassignment, I referred the Motion to Judge Lindsay for a report and recommendation. *See* November 29, 2021 Order.

On January 3, 2022, Judge Lindsay issued a Report and Recommendation (the “R&R”) recommending that Plaintiff’s motion for a default judgment be granted and that Plaintiff be awarded \$167,148.95, plus \$8,613.90 in prejudgment interest, for a total award of \$175,762.85,

in connection with Plaintiff's breach of contract claim. *See generally* R&R, ECF No. 16. Judge Lindsay's R&R further recommended that Plaintiff's claim for accounts stated be dismissed. *See id.* at 6-7. No objection to the R&R has been filed, and the time for doing so has passed. *See id.* at 7.

A district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). To accept those portions of a Report and Recommendation to which no timely objection has been made, "a district court need only satisfy itself that there is no clear error on the face of the record." *Jarvis v. N. Am. Globex Fund, L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (quotation marks omitted).

I have reviewed Judge Lindsay's R&R, and, having found no clear error, adopt the R&R in its entirety.

Therefore, Plaintiff's Motion for Default Judgment is granted as set forth in Judge Lindsay's R&R. Plaintiff is granted a default judgment against Defendant and is awarded \$167,148.95, plus \$8,613.90 in prejudgment interest, for a total award of \$175,762.85, in connection with Plaintiff's breach of contract claim. Plaintiff's claim for accounts stated is dismissed.

The Clerk of Court is directed to enter judgment accordingly.

Plaintiff is directed to serve a copy of this Order on Defendant Koster Industries, Inc. by certified mail and to file proof of service no later than February 7, 2022.

SO ORDERED.

/s/ Diane Gujarati

DIANE GUJARATI

United States District Judge

Dated: January 31, 2022
Brooklyn, New York